IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) Somti & Ors. Vs. Moti Ram
S.B. CR. REVISION PETITION NO.890/2006

(2) Somti & Ors. Vs. Moti Ram
S.B. CR. REVISION PETITION NO.891/2006

Against order dated 22.07.2006 passed by Sessions Judge, Hanumangarh in Criminal Revision Nos. 85/06 (Moti Ram Vs. State & Ors.) & 72/06 (Moti Ram Vs. State & Ors.)

DATE OF ORDER :: 14th November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. Kishan Bansal for petitioners.

BY THE COURT:

These two petitions arise out of one and the same order dated 22.07.2006 passed by Sessions Judge, Hanumangarh deciding two revision petitions bearing Criminal Revision Nos. 72/06 & 85/06 filed by non-petitioner Moti Ram, as such they are being disposed of together.

The lower revisional Court by its order dated 22.07.2006 has deferred the sentence of non-petitioner Moti Ram for six months in both the cases modifying the orders dated 05.01.2006 passed in two criminal Case Nos.121/04 and 135/06 by Addl. Chief Judicial Magistrate and ordered that in the event of non-payment of arrears within six months in default of every month's payment the respondent shall undergo 5 days simple imprisonment however at a time he be not imprisoned for more than 15 days and before sending him back to the prison he be given 6 months' time for improvement.

The contention of the learned counsel is that the learned Sessions Judge committed serious illegality in deferring the sentences awarded to the non-petitioner for six month in the two Criminal cases. It has also been submitted that the non-petitioner was released on bail but he did not make payment of the maintenance allowance, therefore, the order passed by leaned revisional Court below requires to be set aside and the orders of the learned Magistrate are required to be maintained.

I have considered the submissions made before me.

It appears that in maintenance proceedings, the matter went upto the Court of revisional Court and the revisional Court in Para No.6 of the order has considered the matter and disposed of the same. Para 6 of the order dated 22.07.2006 states as under:

> " मैंने उभय पक्ष को सुना तथा पत्रावली का अवलोकन किया। मोती राम को पूर्व में कुछ समय के लिए निगरानी न्यायालय ने जमानत पर भी छोड़ा था परन्तु जमानत पर रहने की अवधि अत्यन्त अल्प होने के कारण वह उक्त अवधि में कुछ कमाई नहीं कर सका था। प्रकरण के हालत में अधीनस्थ न्यायालय द्वारा निर्वाह भत्ते के एरियर्स की अदम अदायगी में निगरानीकर्ता को दी गयी कारावास की सजा 6 (छह) माह के लिए स्थगित की जाती हैं। 6 (छह) माह की अवधि में वह समस्त एरियर्स का भुगतान कर देवे। उसके बाद उसे उक्त भुगतान नहीं करने की सूरत में प्रत्येक माह के एरियर्स के लिए पांच-पांच दिन का साधारण कारावास भुगताया जावे। दोबारा कारावास में भेजने से पहले पुन: उसे 6 माह का अवसर सुधरने के लिए दिया जावे और फिर यही प्रक्रिया पुराने एरियर्स की अदायगी होने तक अथवा सक्षम न्यायालय का अन्यथा आदेश पारित होने तक जारी रखी जावे।"

The learned revisional Court below found that non-petitioner was not in a position to make payment and it was essential to allow him some time for arrangement in relation to making payment. The revisional Court has also ordered for each month's default in making payment and in such an eventuality for sending him in jail. It has been ordered that the petitioner shall be liable for 5 days imprisonment for each such default. Thus, in my humble opinion, the revisional Court has properly modified the order taking into consideration the facts and circumstances of the present case. Therefore, there appears no infirmity, calling interference of this Court under its revisional jurisdiction.

Hence, the revision petitions stand dismissed.

(SATYA PRAKASH PATHAK) J.

/jpa